

**9. OFFICER'S REPORTS**  
**9.1 DEVELOPMENT REPORTS**  
**9.1.4 Permanent Location Of A Sea Container**

*When acting as a planning authority in accordance with the powers conferred by the Planning and Development Act 2005 and any relevant scheme, the Council of the Shire is entitled to make decisions based only on proper planning considerations.*

<b>FILE NO:</b>	<b>NE4.9788</b>
<b>COUNCIL DATE:</b>	<b>15 December 2010</b>
<b>REPORT DATE:</b>	<b>10 December 2010</b>
<b>LOCATION/ADDRESS:</b>	<b>Lot 1 (151) Newcastle Street, York</b>
<b>APPLICANT:</b>	<b>Evana Beaton</b>
<b>SENIOR OFFICER:</b>	<b>Ray Hooper</b>
<b>REPORTING OFFICER:</b>	<b>Brooke Newman</b>
<b>DISCLOSURE OF INTEREST:</b>	<b>Nil</b>
<b>APPENDICES:</b>	<b>Site Plan, Floor Plan</b>
<b>DOCUMENTS TABLED:</b>	<b>Sea Container Policy</b>

**Summary:**

Council is requested to issue planning consent for the permanent location of a sea container on Lot 1 (151) Newcastle Street, York.

**Background:**

An application has been received for a sea container to be permanently located on Lot 1.

The sea container is proposed to be incorporated into the structure of the proposed dwelling on Lot 1 which has been approved under delegated authority.

Once the dwelling has been completed, the sea container will be incorporated into the carport area of the dwelling whereby the container will be reclad and built into the western side of the dwelling.

It is anticipated that the sea container will be clad in the same material as the dwelling and will have the outward appearance of an outbuilding.

The roof of the carport is intended to extend between the dwelling and be built over the sea container.

**Consultation:**

The proposed development has been advertised in accordance with clause 7.3.3 of the Scheme, i.e. advert in local newspaper, letter to adjoining landowners and sign erected on site. Detailed plans of the proposed development and relevant documentation have been on display at the Council offices during the advertising period.

Four (4) submissions have been received (see attached Schedule of Submissions).

**Statutory Environment:**

Lot 1 is zoned "Residential R2.5/10" under the provisions of the Shire of York Town Planning Scheme No 2 ("TPS2"), is approximately 5,855m<sup>2</sup> and is not located within the 1 in 100 year floodplain for the Avon River.

Sea containers are specifically addressed in the Shire of York's Local Planning Policy - Sea Containers as follows:

## ***"POLICY STATEMENT***

*It is Council's objective to regulate the use of sea containers within the Shire of York so as to ensure that they do not detract from the amenity of the area.*

### ***Purpose***

*The purpose of this Policy is to outline Council's development standards in regards to the location and use of sea containers within the Shire.*

*The Policy does not address the placement of transportable dwellings, relocated dwellings, railway carriages, or transportable offices, or the type of building commonly referred to as "Dongas".*

### ***Interpretation***

*For the purpose of this Policy, a sea container is a metal transportable structure designed for the storage and transport of goods from one location to another by road and sea, but can be used generally in 3 different ways:*

- a) Road and Sea Transport: Used by transport and shipping companies to transport and store goods or are temporarily used for storage on private or public property.*
- b) Temporary storage of materials on a building site.*
- c) Conversion to a building for personal or commercial storage on a property.*

*A sea container is not deemed to be an outbuilding or minor structure exempted from Planning Approval under Section 4.2 of Shire of York Town Planning Scheme No. 2.*

*All other terms within this Policy shall have the same meaning given under the provisions of the Shire of York Town Planning Scheme No. 2.*

### ***Application***

*An application is required for Council's Planning Consent prior to siting a sea container on a property (unless it is being used for temporary storage on a building site), and the following details shall be submitted:*

- a) A completed Application for Planning Consent and payment of the minimum fee.*
- b) A neatly drawn and scaled site plan showing the proposed location of the sea container and detailing setbacks to boundaries. The site plan shall also include other buildings, accessways, watercourses and vegetation on the property.*
- c) The proposed size and use of the sea container and if approval is being sought for a temporary period (state time period) or on a permanent basis.*
- d) Evidence by way of photos to show that the sea container will be adequately screened from view and shall not be easily seen from nearby roads, other public places, or adjoining properties.*
- e) If a sea container can be easily seen from nearby roads, other public places, or adjoining properties, then details of any upgrading and/or colour to be painted shall be provided.*

## **Assessment of Proposals**

**a) Road and Sea Transport.**

*Council may approve the temporary storage of sea containers in all zones (not permitted in a designated heritage precinct or on properties listed on the Municipal Inventory, Category 1 and 2) subject to sea containers not being located within the front boundary setback area or in areas designated for car parking, landscaping, effluent control or stormwater control. How many sea containers permitted will be assessed on application.*

*Sea containers must be stored in neat rows (not stacked) and shall be screened by landscaping, fencing or other means acceptable to Council, to ensure that storage areas are not exposed to view from nearby roads or other public places.*

**b) Temporary storage of materials on a building site.**

*In all zones, a sea container may be placed on a property to store building materials while construction of a house or commercial building is being carried out on the property, without requiring town planning approval or a building licence. A sea container must not be placed on the property prior to the issue of a building licence for the construction and must be removed immediately upon completion of construction or expiry of the building licence. (A letter stating intentions will suffice.)*

**c) Conversion to a building for personal or commercial storage on a property.**

*An application to permanently place a sea container on a property shall not be supported unless the following is met:*

**a) The property is zoned either:**

- i) Industrial, Rural Residential, Rural Smallholding or General Agriculture; and**
- ii) is not located within a townsite boundary or abutting a Heritage Precinct or Place of Cultural Significance under Section 5.1 of Town Planning Scheme No. 2.**

*Advice Note: Approval may be issued for those properties appropriately zoned within the townsite boundary, however these will be assessed on the merits of each application.*

**b) The sea container is not being used for habitable purposes.**

**c) The sea container must be screened from view and shall not be easily seen from nearby roads, other public places, or adjoining properties;**

*and/or*

**d) If the sea container will be easily seen from nearby roads, other public places, or adjoining properties, then the exterior of the sea container shall be in a state of good repair or shall be upgraded (i.e. painted to blend in with the surrounding development or landscape) within three (3) months of being placed on site.**

**e) The sea container is not located within the front setback and is setback a minimum of three (3) metres from any side or rear boundary.**

**f) A maximum of one (1) sea container per property shall be permitted.**

## **Approval Conditions**

*Conditions of approval shall be applicable as deemed necessary by the Chief Executive Officer. Without limiting the generality of the foregoing, approvals are to contain the following conditions:*

- a) The development hereby approved shall occur in accordance with the plans and specifications submitted with the application and these shall not be altered or modified without the prior written approval of Council.*
- b) The exterior of the sea container shall be upgraded to blend with the surrounding development or landscape in terms of colour and finish within three (3) months of being placed on site to the satisfaction of Council's Chief Executive Officer.*
- c) The sea container is permitted to be used for (insert use) only and shall not be used for habitable purposes.*
- d) This approval shall expire (insert date or insert "if the development hereby permitted is not completed within 3 months"). The sea container shall be removed from the subject site at the expiry of the approval or after the expiry of any extension of that time which, upon written application (made at least 21 days after the expiry of the approval) to Council, is granted by it in writing.*

## **Advice to Applicant**

*A Building Licence is required prior to the placement of the sea container on site and shall include certification from a professional engineer as to the method of providing structural tie down, if it is to be used for or be for conversion to a building for personal or commercial storage on a property."*

Under the provisions of TPS2, Council has discretion to vary a Local Planning Policy should it deem the proposed development to be appropriate.

## **Policy Implications:**

Possible review of Local Planning Policy - Sea Containers.

## **Financial Implications:**

Planning fees have been paid and building licence fees will be required.

## **Strategic Implications:**

Key Result Area 1 – Objective 1:

*"To develop a framework to facilitate planning and decision-making in order to identify and meet community needs, develop opportunities and implement change."*

The current sea container policy does not allow for the placement of sea containers on Residential zoned land within either the town site of York or the surrounding areas. It may be appropriate that the policy be reviewed to allow sea containers to be placed in the town site with strict conditions imposed as part of any approvals. This would facilitate sound framework to enable development opportunities within the town site whilst ensuring visual amenity is not adversely impacted.

Key Result Area 2 - Objective 4:

*"To utilise the unique features of York's heritage and rural lifestyle, where appropriate, as the basis for economic development."*



Sea containers may be viewed by members of the public to be a means of storage which is more secure than an outbuilding. Allowing sea containers on property within the town site with strict conditions may be a way of facilitating economic development in areas previously left vacant.

Key Result Area 2 - Objective 5:

*“To ensure economic development does not conflict with York’s heritage, lifestyle and environment.”*

Ensuring strict conditions are adhered to in the placement of sea containers within the town site of York will ensure there is no conflict with York’s heritage, lifestyle or environment.

**Voting Requirements:**

**Absolute Majority Required:           No**

**Site Inspection:**

**Site Inspection Undertaken:**

Lot 1 is currently vacant. There is an approval in place for the construction of a dwelling which will be commenced shortly.

**Triple bottom Line Assessment:**

**Economic Implications:**

Allowing landowners to locate sea containers on property situated within the town site of York (provided strict conditions are imposed) could make it financially viable for landowners to develop their property. This would encourage landowners to reside on their property and thus increase expenditure within the Shire of York.

**Social Implications:**

Provided there are strict conditions imposed on the location of sea containers within the town site, there is no perceived social implications.

**Environmental Implications:**

There are no expected environmental implications associated with the location of sea containers in town sites provided that strict conditions are imposed and adhered to.

**Comment:**

The applicant has advised that they wish to utilise a sea container for storage of tools and a secure workshop area.

The applicant currently operates a renovation business and has indicated that a secure, weather proof storage facility would be desirable in order to maintain tools etc associated with the business.

It is acknowledged that Council’s Local Planning Policy - Sea Containers prohibits the location of sea containers within the town site of York. However, it is considered that the current proposal has sufficient grounds to justify a variation to the Policy due to the following:

1. It is proposed that the sea container be incorporated into the structure of the approved dwelling by locating it under the roof of the carport and cladding it in the same material as the dwelling; and
2. The proposal of the applicant for the location of the sea container is such that the sea container will be reclad with the same materials as the dwelling. This would ensure that the outwards appearance of the sea container would be that of an outbuilding and not a sea container ensuring the sea container blends with the fabric of the dwelling.

With the imposition of planning conditions to ensure the sea container does not adversely affect the amenity of the area or town site comes the ability by Council to apply the provisions of the Planning & Development Act 2005 to initiate prosecution against the landowner for failing to comply with the conditions imposed. The fines that can be imposed under that legislation are significant.

Therefore, in light of the above, it is recommended that Council issue planning consent for the permanent location of a sea container on Lot 1 subject to various conditions.

It is also recommended that Council instruct staff to perform a review of Council's Local Planning Policy - Sea Containers with the view to allowing the temporary and permanent location of sea containers within the town site and the ability to impose strict conditions upon such development.

**RESOLUTION  
051210**

**Moved: Cr Lawrance**

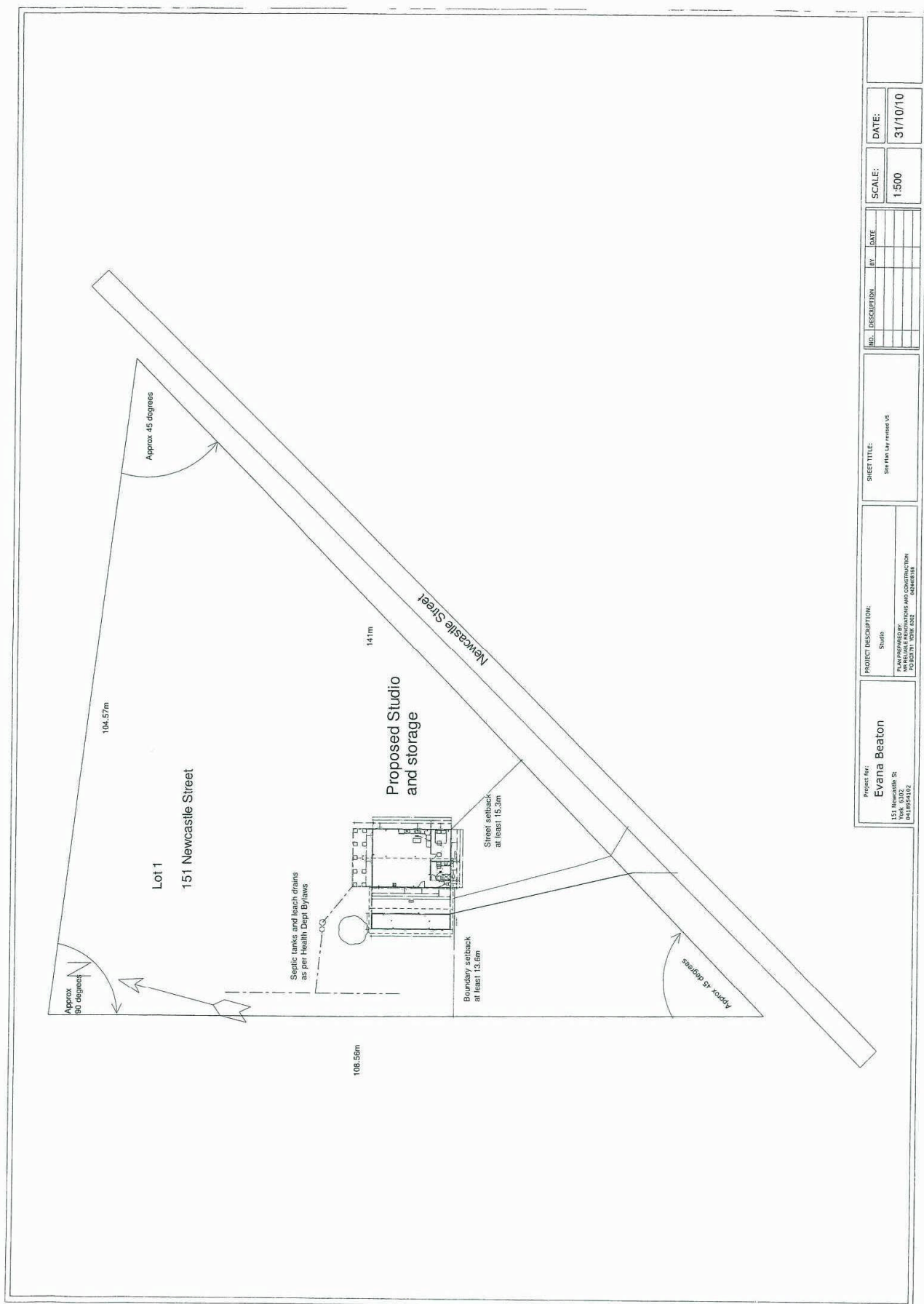
**Seconded: Cr Randell**

***"That Council:***

- 1. *Issue planning consent for the permanent location of a sea container on Lot 1 (151) Newcastle Street, York subject to the following conditions:***
  - (a) Development must substantially commence within one (1) year from the date of this decision;***
  - (b) Development must take place in accordance with the approved plans;***
  - (c) Prior to the issue of a building licence, detailed drainage plans shall be submitted to the satisfaction of the local government;***
  - (d) Prior to occupation of the development, vehicle crossover(s) shall be constructed to the satisfaction of the local government;***
  - (e) Prior to occupation of the development, stormwater drainage works must be completed in accordance with the approved plans to the satisfaction of the local government;***
  - (f) The on-site drainage system shall be maintained on an ongoing basis to the satisfaction of the local government;***
  - (g) The sea container is not be used for human habitation, commercial or industrial purposes;***
  - (h) Prior to the issue of a building licence, a detailed schedule of building materials to the satisfaction of the local government be submitted for approval; and***
  - (i) Should the sea container fall into a state of disrepair (to be determined by the local government) the sea container shall be removed at the discretion of the local government.***
- 2. *Instruct staff to undertake a review of the Local Planning Policy - Sea Containers with the view to inserting a provision for the temporary and permanent location of sea containers within town site boundaries subject to various strict conditions."***

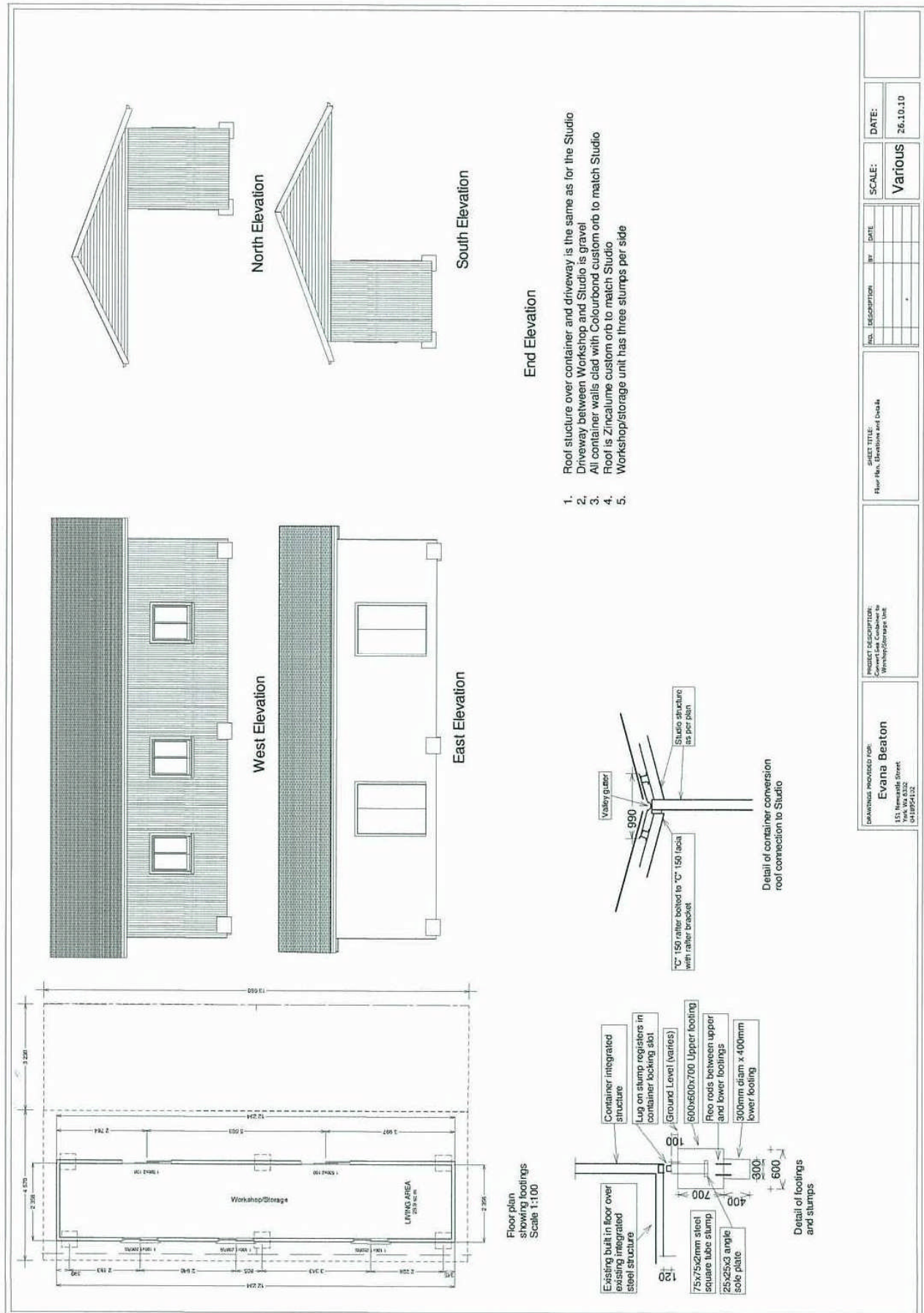
**CARRIED: 5/0**

#### ITEM 9.1.4 APPENDIX A

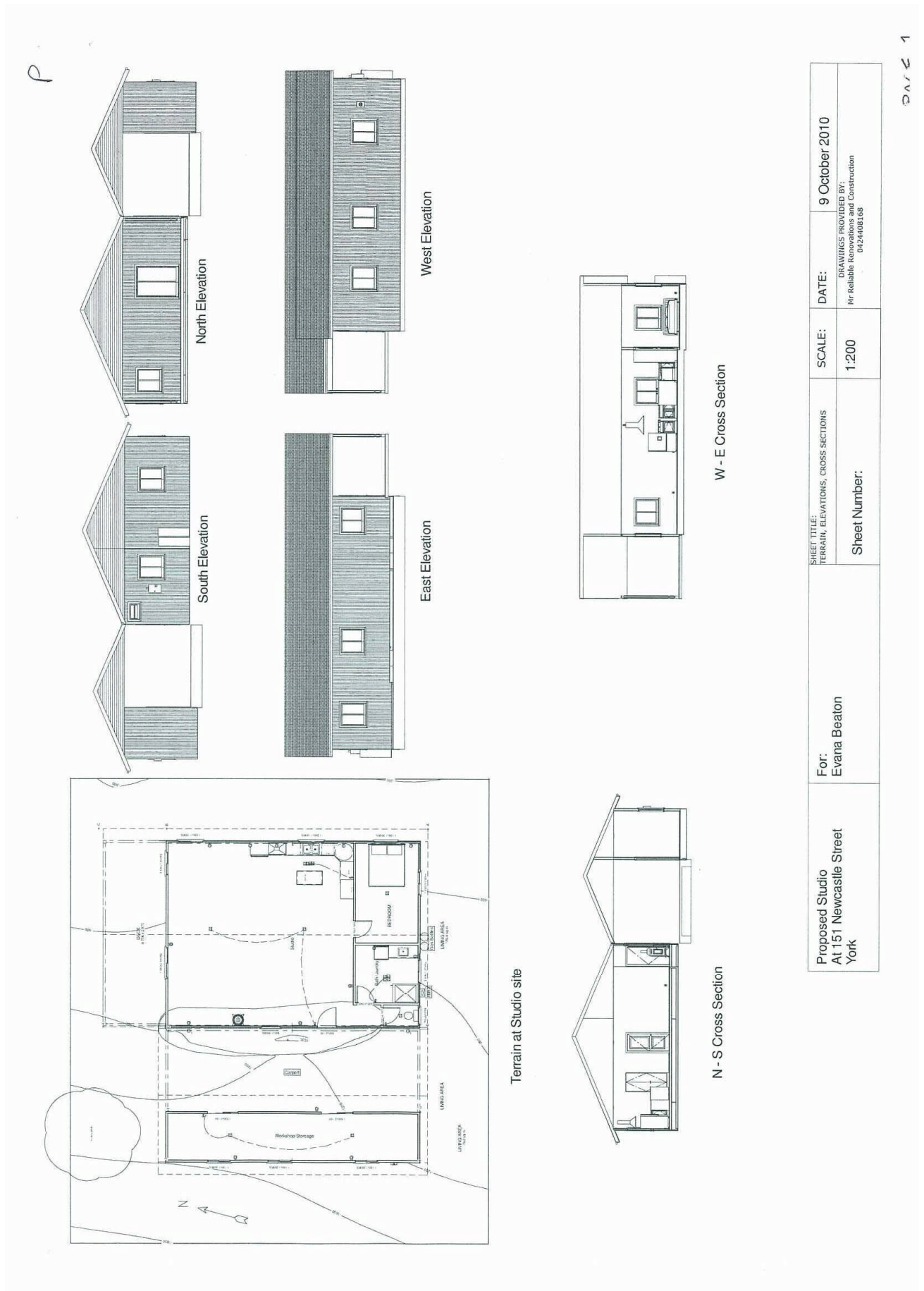




**ITEM 9.1.4  
APPENDIX B**











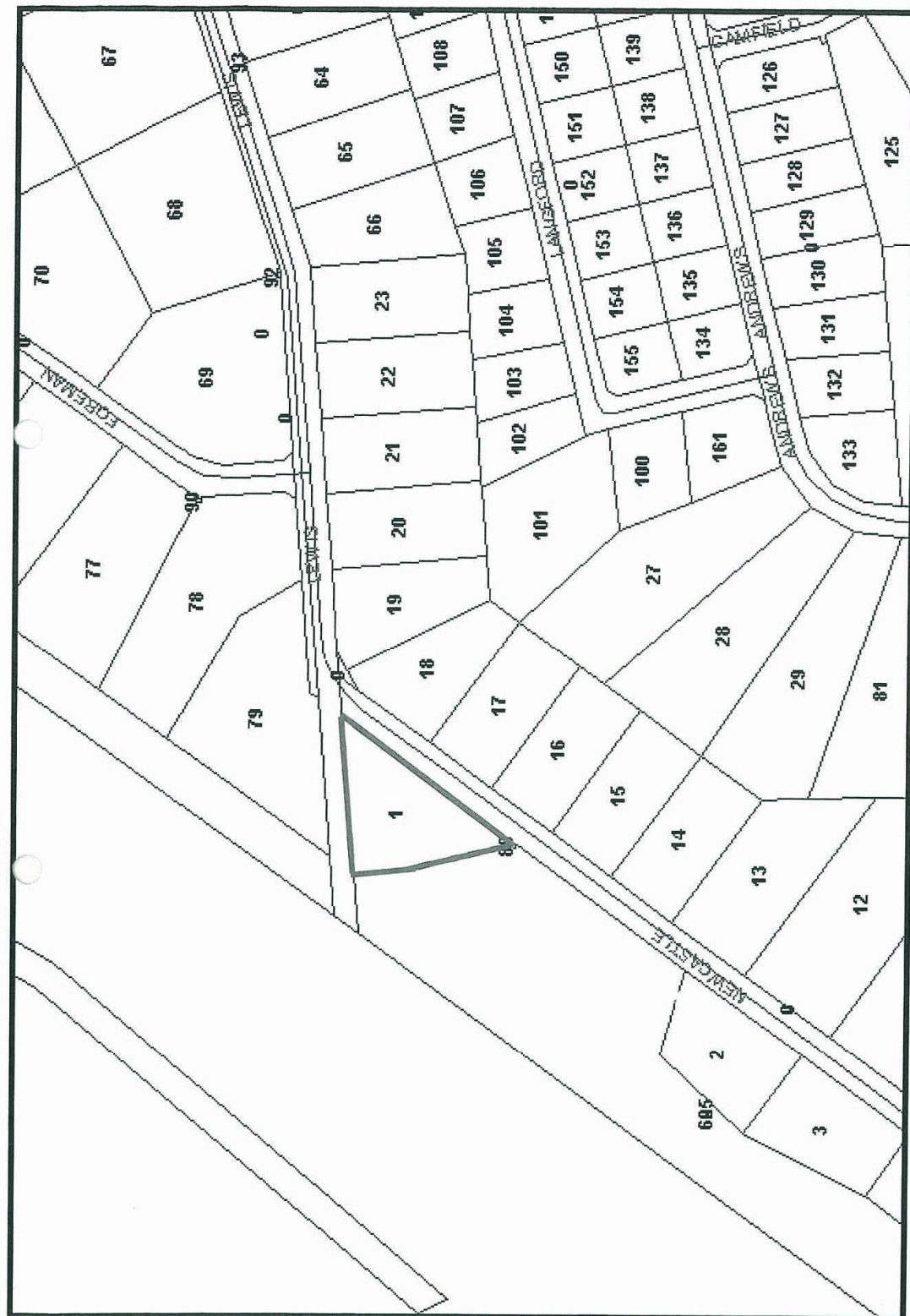


**PROPOSED PERMANENT LOCATION OF A SEA CONTAINER  
LOT 1 (151) NEWCASTLE STREET, YORK**

**ITEM 9.1.4  
APPENDIX D**

<b>Submitter</b>	<b>Submission Received</b>	<b>Applicant's Comments</b>	<b>Officer Comments</b>
Landowner	I don't understand why this type of construction has been chosen but I would prefer to see more conventional housing to contribute to the high standard of this estate.	The container is to be incorporated simply as internal framing for a storage room that will be fully clad on the out sides and roofed, all to replicate the style and colours of the approved dwelling.	This submission is referring to the dwelling which is not subject to this approval. The dwelling has been issued approval under delegated authority as it complies with the Residential Design Codes and there are no design guidelines in place for the York Estates.
Landowner	We acknowledge receipt of your letter dated 1 November 2010 regarding application for the permanent location of a sea container to the western side of a proposed new dwelling and we object to this being implemented.  Sea containers are "industrial" and have no place in a residential estate.	As above, this part of the structure will aesthetically replicate the proposed dwelling. So the finished appearance will not be industrial, but residential. This residential appearance is clear in the elevations shown in the plans submitted to the shire.	It could be perceived that sea containers, as stand alone developments, present an "industrial" look when positioned on residential land. However, if a sea container is proposed to be incorporated into the fabric of a dwelling, it is considered that the "industrial" presentation has been replaced by a "residential" presentation.
Landowner	Very please to see development in the area. Better to see affordable development than every second property on the market.	Noted	Noted.
Landowner	We have no objections.	Noted	Noted.





**Lot 1 (151) Newcastle Street, York**



## **9. OFFICER'S REPORTS**

### **9.1 DEVELOPMENT REPORTS**

#### **9.1.5 Retrospective Approval For An Over Height Fence Partially Constructed On A Heritage Listed Property And In A Heritage Precinct**

*When acting as a planning authority in accordance with the powers conferred by the Planning and Development Act 2005 and any relevant scheme, the Council of the Shire is entitled to make decisions based only on proper planning considerations.*

<b>FILE NO:</b>	<b>AV1.13430</b>
<b>COUNCIL DATE:</b>	<b>20 December 2010</b>
<b>REPORT DATE:</b>	<b>13 December 2010</b>
<b>LOCATION/ADDRESS:</b>	<b>Lot 402 (31) Avon Terrace, York</b>
<b>APPLICANT:</b>	<b>Tracey King</b>
<b>SENIOR OFFICER:</b>	<b>Ray Hooper</b>
<b>REPORTING OFFICER:</b>	<b>Brooke Newman</b>
<b>DISCLOSURE OF INTEREST:</b>	<b>Nil</b>
<b>APPENDICES:</b>	<b>Plan, Photographs</b>
<b>DOCUMENTS TABLED:</b>	<b>Nil</b>

#### **Summary:**

Council is requested to consider issuing retrospective planning consent for an over height fence partially constructed on a heritage listed property (Lot 402 (31) Avon Terrace, York) which is located within a heritage precinct.

#### **Background:**

The applicant advised staff that work had commenced on removing and reinstating the front fence at Lot 402.

The applicant was advised that the works that had been undertaken required planning approval as the property is listed on the Shire's Municipal Heritage Inventory and is also within a heritage precinct (Blandstown).

Additions to the front fence are proposed to be a 1.1m high brick and stone wall from ground level with brick piers to a maximum height of 2.6m. It is proposed to infill between the piers with wrought iron.

Generally, the front fence complies with the Shire's Local Planning Policy - Heritage Precincts and Places in terms of building materials and colour. However, the height of the piers exceed the maximum fence heights by approximately 0.8 m (80 cm).

#### **Consultation:**

The proposed development has been advertised in accordance with clause 7.3.3 of the Scheme, i.e. advert in local newspaper, letter to adjoining landowners and sign erected on site. Detailed plans of the proposed development and relevant documentation have been on display at the Council offices during the advertising period.

Two (2) submissions have been received (see attached Schedule of Submissions).

#### **Statutory Environment:**

Lot 402 is zoned "Residential R40" under the provisions of the Shire of York Town Planning Scheme No 2 ("TPS2"), is approximately 1,065m<sup>2</sup> and is not located within the 1 in 100 year floodplain for the Avon River.

Fencing requirements for heritage listed properties and properties which are located within a heritage precinct are dealt with under the Shire's Local Planning Policy - Heritage Precincts and Place ("Heritage Policy") as follows:

#### *"3.4.6 Setting*

*The treatment of front setback area to primary and secondary streets has a significant impact on streetscape. Fences and gates in the Precincts generally reflect the rural atmosphere of the town and few existing houses in the area have substantial front fences.*

*Traditional driveways and paths in the Blandstown Precinct were of local gravel or red clay. Front gardens are an important part streetscape and remnants of traditional gardens can be as important to the character and atmosphere of a heritage town as the original buildings. It is important to the landscape of the town that, where possible, these be conserved and ideally, new gardens would be designed to integrate with them.*

*While the policy does not provide controls on the materials used in driveways and paths or the nature of residential gardens, some general guidelines are contained in Appendix E for interested persons.*

*Fences and gates associated with residential development shall be consistent with the following requirements:*

- a) For existing houses or properties, fencing and gates shall match the period of development. Local stone, timber picket, picket and red brick or local stone pier, or timber post and rail with chain mesh may be appropriate. Hedges may be appropriate as an alternative to fencing.*
- b) Fibre cement sheeting or steel, iron or colourbond sheeting as a fencing material shall be avoided on any street frontage in front of the building line;*
- c) Fibre cement sheeting or steel, iron or colourbond sheeting may be used to fence back yards if its visual impact from the street will be limited;*
- d) Limestone fencing is not permitted in the Precincts;*
- e) Front fencing shall be open in style to allow views to and from the house;*
- f) Solid fencing on front boundaries and on side boundaries in front of the building line shall not exceed a height of 1200mm;*
- g) Any fencing on front and side boundaries in front of the building line over 750mm shall be truncated a minimum of 1.5m at the entries to driveways and the intersection of streets.*

*Suggested materials for driveways and paths in residential Area are gravel, stabilised clay, red brick paving, brown or red asphalt or brown concrete."*

The design of the front fence is for a 1.1m solid fence (red brick) with brick piers to a maximum height of 2.6m. It is proposed to infill between the brick piers with wrought iron.

The building materials are acceptable under the Heritage Policy, however, the piers are well over height.

Fencing within the Shire of York is also covered under Fencing Local Laws as follows:

**“6. Fences Within Front Setback Areas**

- (1) *A person shall not, without the written consent of the Building Surveyor, erect a fence greater than 1200mm in height, within the front setback area of a Residential Lot within the district.*
- (2) *The Building Surveyor may approve the erection of a fence of a height greater than 1200mm, but not exceeding 1800mm, in the front setback area of a Residential Lot only if the fence:*
  - (a) *on each side of the driveway into the Lot across the front boundary is angled into the Lot for a distance of not less than 2000mm along the frontage to a distance of not less than 2000mm from the frontage in order to provide appropriate splayed lines of vision for a motorist using the driveway for access to a thoroughfare; and*
  - (b) *where a lot has two or more street frontages the fence is truncated at the corner to provide a truncation equal to 6.0 metres by 6.0 metres.*
- (3) *The provisions of sub-clause (2)(a) shall not apply to a fence of open construction that does not obscure the lines of vision of a motorist using the driveway for access to a thoroughfare.”*

Fences in residential areas are also governed by the requirements of the Residential Design Codes (“R Codes”) as follows:

- “6.2.5 A5** *Front walls and fences within the primary street setback area that are visually permeable 1.2m above natural ground level.”*
- 6.2.6 A6** *Walls and fences truncated or reduced to no higher than 0.75m within 1.5m of where walls and fences adjoin vehicle access points where a driveway meets a public street and where two streets intersect.”*

The current design for the incomplete fence does not allow for truncations at the driveway access point.

**Policy Implications:**

Non-compliance with Policy requirements could result in an undesirable precedent being set for heritage listed properties and for heritage precincts in general.

**Financial Implications:**

Planning fees have been paid and building licence fees will be required. Retrospective fees may also be applicable.

**Strategic Implications:**

Key Result Area 2 - Objective 5:

*“To ensure economic development does not conflict with York’s heritage, lifestyle and environment.”*

The current design for the front fence at Lot 402 would conflict with York's heritage in that it would be an inappropriate height and would overshadow the façade of the heritage listed building on Lot 402.

**Voting Requirements:**

**Absolute Majority Required:**           **No**

**Site Inspection:**

**Site Inspection Undertaken:**           **Yes**

A site inspection revealed that construction of the front fence has been commenced without approval (see photographs).

As at the date of writing this report, work has ceased on the fence.

**Triple bottom Line Assessment:**

**Economic Implications:**

Nil.

**Social Implications:**

The presentation of heritage listed properties and heritage precincts in general is an important factor in community interests.

**Environmental Implications:**

None.

**Comment:**

Generally speaking, the proposed completed fence will comply with the Heritage Policy except for the height of the brick piers and the truncation at the driveway entrance.

It is staff's opinion that the fence is acceptable, however, the brick piers should be no higher than 1.8m from the natural ground level (in accordance with the Shire's Fencing Local Laws). It is considered appropriate that the wrought iron be no higher than 1.8m also.

The solid aspect of the wall (brick and stone) will be 1.272m in height at the highest point. It is considered that this is acceptable and a variation should be granted for the solid wall.

In terms of the truncation at the driveway entrance, it is considered acceptable to construct the solid wall no higher than 0.75m with the wrought iron to the 1.8m height of the brick pier. This would alleviate the need for a truncation on the corner.

Therefore, it is recommended that Council issue retrospective planning consent for the completion of the commenced front wall at Lot 402 (31) Avon Terrace, York subject to changes to the heights of the wall and other standard conditions.



**RESOLUTION  
061210**

**Moved: Cr Lawrance**

**Seconded: Cr Scott**

***“That Council issue retrospective planning approval for the completion of the commenced front wall at Lot 402 (31) Avon Terrace, York subject to the following conditions:***

- 1. Development must substantially commence within one (1) year from the date of this decision;***
- 2. Development must take place in accordance with the approved plans;***
- 3. Prior to the issue of a building licence and/or prior to the re-commencement of works on the front wall at Lot 402, amended plans be received detailing all brick piers to be no higher than 1.8m from natural ground level, wrought iron work being no higher than 1.8m from natural ground level and the wall positioned on either side of the driveway be detailed as no higher than 0.75m from natural ground level with the wrought iron work to be no higher than 1.8m from natural ground level.***
- 4. Prior to the issue of a building licence for the front fence or within 3 weeks of the date of this approval, retrospective planning fees of \$270.00 shall be paid for the unapproved commencement of construction of the front fence.”***

**CARRIED: 5/0**















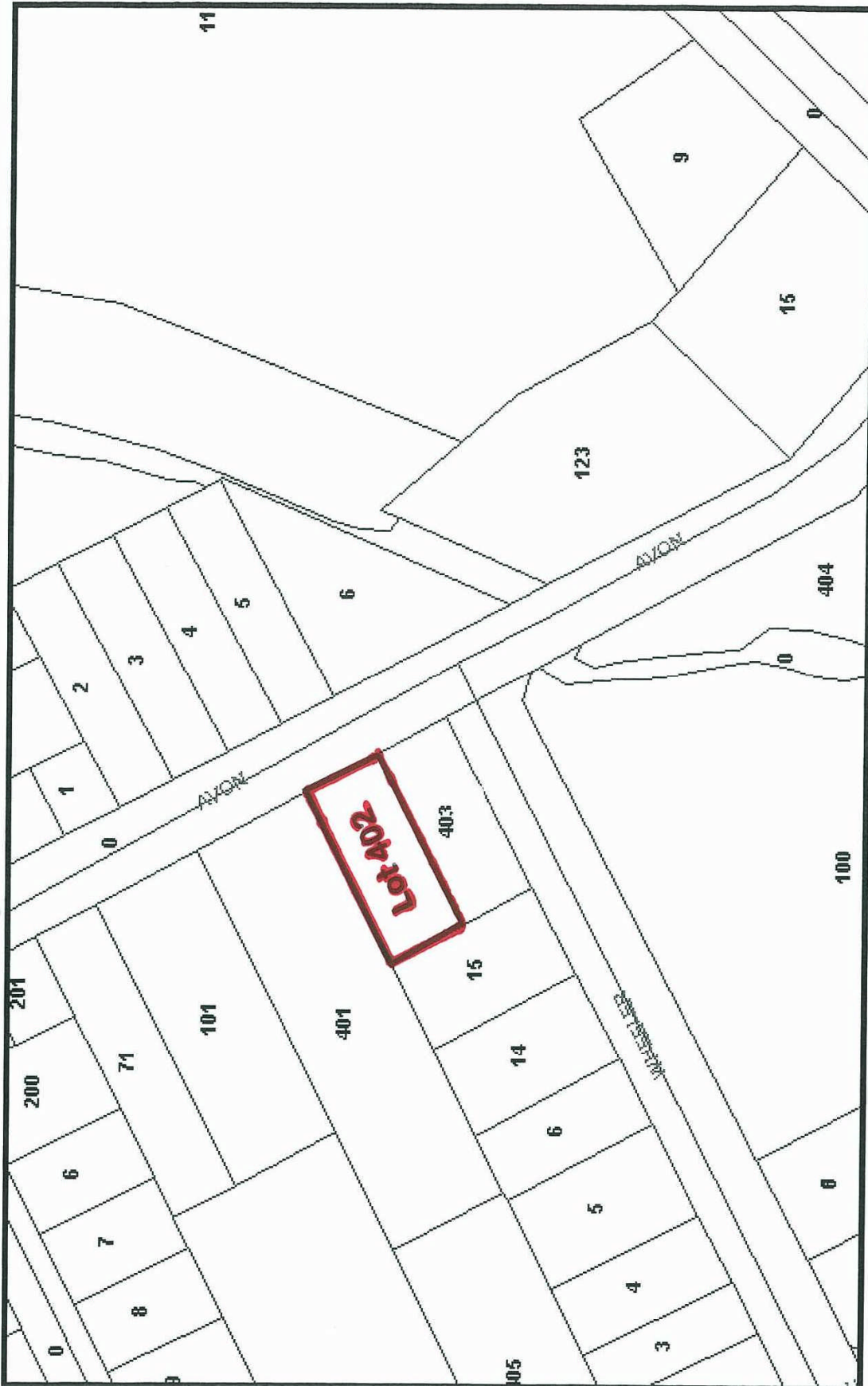


**PROPOSED RETROSPECTIVE APPROVAL FOR AN OVER HEIGHT  
FRONT FENCE ON A HERITAGE LISTED PROPERTY AND IN A HERITAGE PRECINCT  
LOT 402 (31) AVON TERRACE, YORK**

Submitter	Submission Received	Applicant's Comments	Officer Comments
Heritage Advisor	<p>I write to provide comment on the application for retrospective approval for a front fence to 31 Avon Terrace as per the Shire of York's Local Planning Policy for Heritage Precincts and Places.</p> <p>In general, the fence meets the Shire's LPP in terms of style, materials and colour. It is noted, however, that the height of the fence far exceeds that permitted in the guidelines.</p>	We are in discussions with Shire staff to adjust the plan to meet with the shire's requirements to a maximum of 1.8 metres	Noted. A condition of any approval will be that the fence be no higher than 1.8m from natural ground level.
Landowner	<p>The era of the house is verging onto "Federation Architecture" so I suppose some ironwork would be appropriate. However, the height and mass could be detrimental to the façade of the house.</p>	We are in discussions with Shire staff to adjust the plan to meet with the shire's requirements to a maximum of 1.8 metres	Noted. A condition of any approval will be that the fence be no higher than 1.8m from natural ground level.







**Lot 402 (31) Avon Terrace, York**



## **9. OFFICER'S REPORTS**

### **9.1 DEVELOPMENT REPORTS**

#### **9.1.6 Over Height Outbuilding In A Heritage Area And In The Floodplain**

*When acting as a planning authority in accordance with the powers conferred by the Planning and Development Act 2005 and any relevant scheme, the Council of the Shire is entitled to make decisions based only on proper planning considerations.*

<b>FILE NO:</b>	<b>MO2.9650</b>
<b>COUNCIL DATE:</b>	<b>20 December 2010</b>
<b>REPORT DATE:</b>	<b>13 December 2010</b>
<b>LOCATION/ADDRESS:</b>	<b>Lot 75 (22) Monger Street, York</b>
<b>APPLICANT:</b>	<b>Sally Anne Hasluck</b>
<b>SENIOR OFFICER:</b>	<b>Ray Hooper</b>
<b>REPORTING OFFICER:</b>	<b>Brooke Newman</b>
<b>DISCLOSURE OF INTEREST:</b>	<b>Nil</b>
<b>APPENDICES:</b>	<b>Plans, Photographs</b>
<b>DOCUMENTS TABLED:</b>	<b>Nil</b>

#### **Summary:**

Council is requested to consider issuing planning consent for the construction of an over height outbuilding within a heritage area and which is located within the Avon River floodplain.

#### **Background:**

An application has been received for an over height outbuilding for Lot 75 (22) Monger Street, York.

The applicant is proposing to remove the existing outbuilding and construct in its place a new outbuilding with the same dimensions as the existing outbuilding of 6m x 6m (36m<sup>2</sup>) with a wall height of 3.810m and a ridge height of 5.209m.

It is proposed to construct a mezzanine level in the new outbuilding to allow for additional storage space without increasing the overall outbuilding floor area.

Due to site restrictions, it is not possible to increase the floor area of the outbuilding. Significant trees and other infrastructure would be required to be removed in order to increase the floor area of the outbuilding. Therefore, the mezzanine level has been proposed.

The position of the outbuilding is such that it is constructed below the level of the existing dwelling on Lot 75 which will result in the presentation to the street of the outbuilding and the dwelling with the same roof heights.

#### **Consultation:**

The proposed development has been advertised in accordance with clause 7.3.3 of the Scheme, i.e. advert in local newspaper, letter to adjoining landowners and sign erected on site. Detailed plans of the proposed development and relevant documentation have been on display at the Council offices during the advertising period.

Five (5) submissions have been received (see attached Schedule of Submissions).

#### **Statutory Environment:**

Lot 75 is zoned "Residential R40" under the provisions of the Shire of York Town Planning Scheme No 2 ("TPS2"), is approximately 3,172m<sup>2</sup> and is located within the 1 in 100 year floodplain for the Avon River.

Outbuildings in residential areas are dealt with under the provisions of the Residential Design Codes ("R Codes") as follows:

<p>P1 - Outbuildings that do not detract from the streetscape or the visual amenity of residents or neighbouring properties.</p>	<p>A1 - Outbuildings that:</p> <ul style="list-style-type: none"> <li>i are not attached to a dwelling;</li> <li>ii are non-habitable;</li> <li>iii collectively do not exceed 60m<sup>2</sup> in area or 10 per cent in aggregate of the site area, whichever is the lesser;</li> <li>iv do not exceed a wall height of 2.4m;</li> <li>v do not exceed a ridge height of 4.2m;</li> <li>vi are not within the primary street setback area;</li> <li>vii do not reduce the amount of open space required in table 1; and</li> <li>viii comply with the siting and design requirements for the dwelling, but do not need to meet rear setback requirements of table 1.</li> </ul>	<p>The outbuilding is not attached to the dwelling.</p> <p>The outbuilding is not habitable.</p> <p>The outbuilding does not exceed 60m<sup>2</sup>.</p> <p>The outbuilding exceeds the maximum wall height by 1.41m.</p> <p>The outbuilding exceeds the maximum ridge height by 1.009m.</p> <p>The outbuilding is not within the street setback area.</p> <p>The outbuilding does not reduce the open space requirement.</p> <p>The outbuilding meets the siting and design requirements for the existing dwelling.</p>
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Outbuildings are not specifically dealt with under the provisions of the Shire of York Local Planning Policy - Heritage Precincts and Places. However, garages and carports are dealt with as follows:

*"Garages and carports shall be designed to have a minimal impact on the streetscape and shall be constructed to consider the following:*

- a) *The garage or carport should be built to reflect the style of the existing or proposed house, but not be so elaborately detailed as to detract from the house. The design should be sympathetic to the style of the house without copying the detailing used on the existing or proposed house;*
- b) *Roof form, materials and pitch should be the same as the existing house. Walls and/or piers should match existing brickwork or render as closely as possible;*

- c) *Timber posts used in a carport should respond to the style of the verandah posts on the house. Timber decoration may be used to relate the new structure to the existing or proposed house, but should not make the garage or carport more important than the house;*
- d) *The materials and colours of garage doors should not detract from the heritage character of the Blandstown Precinct; and*
- e) *Where the side wall of a garage faces a street it shall be designed and treated in such a manner that it presents an articulated and detailed facade to the street. Eaves of a minimum 300mm shall be provided."*

It is considered that the above provisions could also be applied to outbuildings and in such respect, any approval issued will be conditional on a building materials schedule being received and approved prior to the issue of a building licence.

#### **Policy Implications:**

A Local Planning Policy for Outbuildings is required to be initiated by Council. It is anticipated that the Policy will be presented to the February 2011 OCM.

#### **Financial Implications:**

Planning fees have been paid and building licence fees will be required.

#### **Strategic Implications:**

Key Result Area 1 – Objective 1:

*"To develop a framework to facilitate planning and decision-making in order to identify and meet community needs, develop opportunities and implement change."*

Historically, there has been no Local Planning Policy to guide the construction of outbuildings throughout the Shire. It is anticipated that an Outbuildings Policy will assist landowners when proposing to construct outbuildings in the Shire by providing size and height specifications which are deemed to be acceptable by Council.

Key Result Area 2 - Objective 5:

*"To ensure economic development does not conflict with York's heritage, lifestyle and environment."*

The proposed outbuilding exceeds the height requirements of the Codes thus impacting negatively on the Heritage values of the Central Precinct. However, due to the outbuilding being positioned lower than the dwelling, the appearance will be that of two matching rooflines which will lessen the impact of the outbuilding.

#### **Voting Requirements:**

**Absolute Majority Required: No**

#### **Site Inspection:**

**Site Inspection Undertaken: Yes**

A site inspection was undertaken which revealed the existing outbuilding in situ. The existing outbuilding is well below the level of the dwelling and it is proposed to construct the new outbuilding in the existing outbuilding's place.

The site has area constrictions such as mature trees, retaining walls, possible essential services infrastructure and fence lines in the direct vicinity of the existing outbuilding. These restrictions prevent the applicant from constructing a larger outbuilding than what is currently there.

Therefore, in order for the applicant to achieve additional storage space, a mezzanine level is proposed in the new outbuilding thus increasing the height of the new outbuilding to a ridge height of 5.209m.

**Triple bottom Line Assessment:**

**Economic Implications:**

Increasing storage area space on the property will assist the applicant in achieving the maximum development potential of Lot 75.

**Social Implications:**

The presentation of heritage listed properties and heritage precincts in general is an important factor in community interests.

**Environmental Implications:**

The existing outbuilding is positioned in the 1 in 100 year floodplain for the Avon River. As the structure is already there and the new outbuilding is proposed to replace the existing one, it is considered that no additional environmental impacts will be imposed on Lot 75.

**Comment:**

The applicant is proposing to remove the existing outbuilding on Lot 75 and replace it with a new outbuilding which will incorporate a mezzanine level within it.

A mezzanine level was proposed for the new outbuilding as the applicant requires more storage area. Due to site constraints such as mature trees, retaining walls, possible essential services infrastructure and fence lines in the direct vicinity of the existing outbuilding it is not possible to increase the floor area of the existing outbuilding or construct an outbuilding with a larger floor area.

It is also not possible to locate the outbuilding in another area of Lot 75 due to the topography of the block and the proximity to the Avon River Floodway.

It is considered that an outbuilding with a floor area of 36m<sup>2</sup> is appropriate. It is considered that an outbuilding with a wall height of 3.810m and a ridge height of 5.209m is excessive.

However, due to the location of the proposed outbuilding, being approximately 1.5m to 2m below the natural ground level at the road, it is considered that the height of the new outbuilding would not pose an adverse affect on the amenity of the locality or pose negative impacts to the heritage aspects of the area. It is anticipated that the roof line of the proposed outbuilding will blend with the existing dwelling's roofline.

Therefore, it is recommended that Council issue planning consent for the construction of an over height outbuilding with the dimensions of 6m x 6m (36m<sup>2</sup>) with a wall height not exceeding 3.810m and a ridge height not exceeding 5.209m on Lot 75 subject to various conditions.

**RESOLUTON  
071210**

**Moved: Cr Scott**

**Seconded: Cr Lawrance**

***“That Council:***

***Issue planning consent for an over height outbuilding with the dimensions of 6m x 6m (36m<sup>2</sup>) with a wall height not exceeding 3.810m and a ridge height not exceeding 5.209m at Lot 75 (22) Monger Street, York subject to the following conditions:***

- 1. Development must substantially commence within one (1) year from the date of this decision;***
- 2. Development must take place in accordance with the approved plans;***
- 3. Prior to the issue of a building licence, detailed drainage plans shall be submitted to the satisfaction of the local government;***
- 4. Prior to occupation of the development, vehicle crossover(s) shall be constructed to the satisfaction of the local government;***
- 5. Prior to occupation of the development, stormwater drainage works must be completed in accordance with the approved plans to the satisfaction of the local government;***
- 6. The on-site drainage system shall be maintained on an ongoing basis to the satisfaction of the local government;***
- 7. The outbuilding is not be used for human habitation, commercial or industrial purposes at any time;***
- 8. Prior to the issue of a building licence, a detailed schedule of building materials to the satisfaction of the local government be submitted for approval;***
- 9. Prior to the issue of a building licence, a demolition licence be applied for and issued for the removal of the existing outbuilding. All materials associated with the demolition of the existing outbuilding are to be removed from site prior to the issue of a building licence.”***

***CARRIED: 5/0***





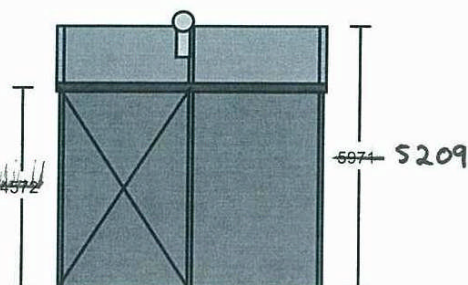
APPROVED BY



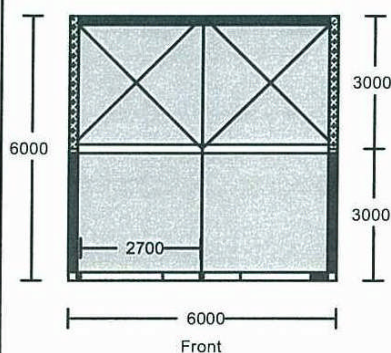
**NICOLAS B ROULANT**  
B.ENG (CIVIL), MIE AUST 157390

RPEQ 6888 (QLD); 11619ES (NT); GC4590B (TAS); EC25307 (VIC)

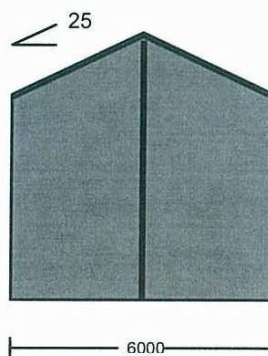
Left View



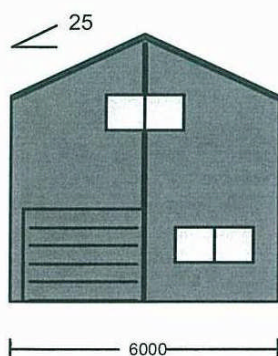
Plan View



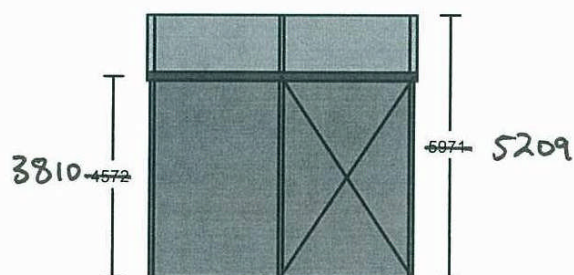
Rear View



Front View



Right View



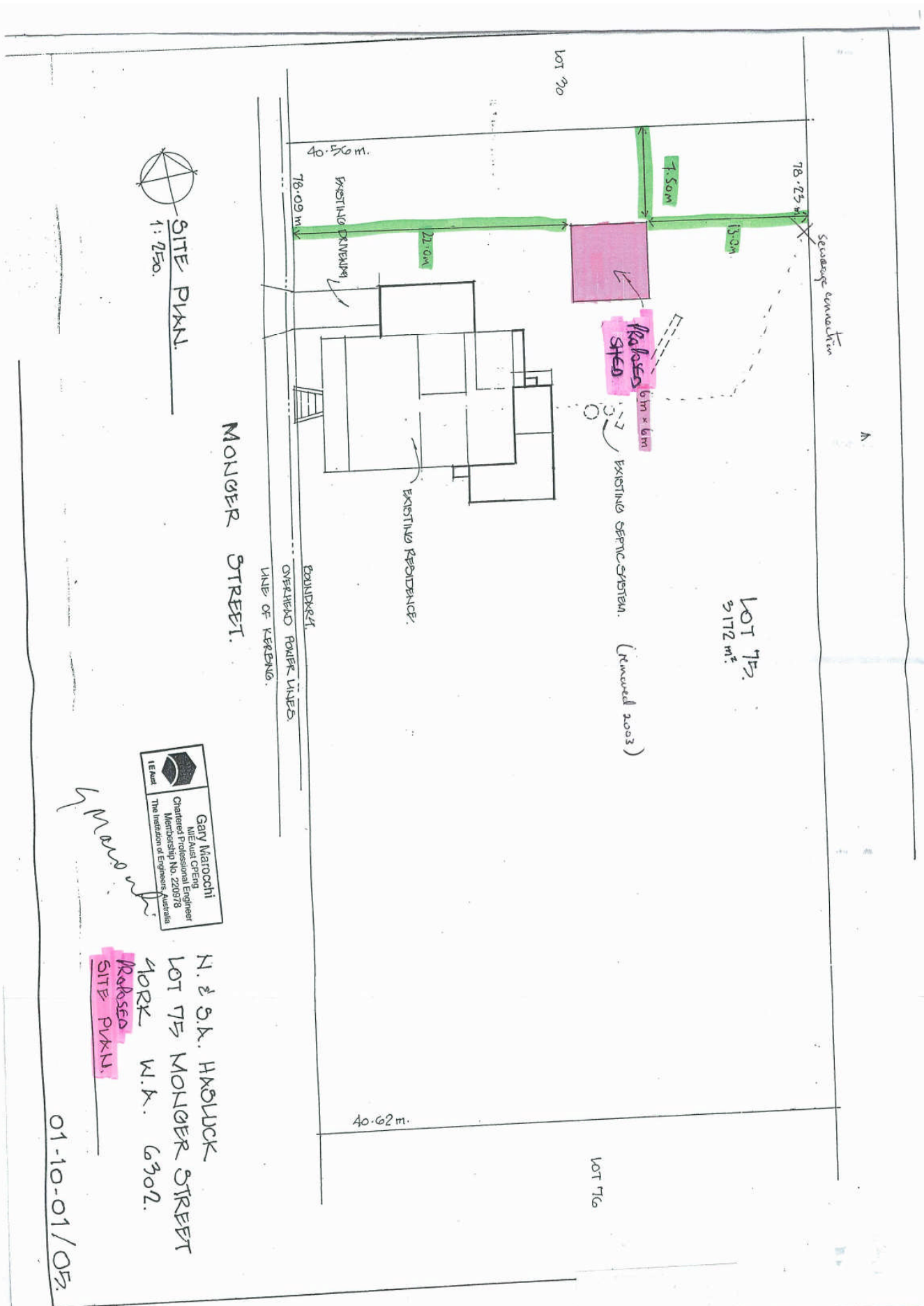
TG & DT Edwards T/as THE Shed Company York

Unit 1/18 Forrest St  
York WA  
Phone: (08) 9641 2526  
Fax: (08) 9641 2553

Client - HASLUCK Sally Anne  
Site Address - 22 Monger Street York  
WA 6302  
Quote Number - HAS-RS133

Date - 13/09/2010  
By - Rob Reed  
Wind Region - A  
Wind Speed - 34 m/s  
Sheet No - 1/1









**ITEM 9.1.6  
APPENDIX C**









**PROPOSED OVER HEIGHT OUTBUILDING IN A HERITAGE  
AREA AND WITHIN A FLOOD PLAIN  
LOT 75 (22) MONGER STREET, YORK**

Submitter	Submission Received	Applicant's Comments	Officer Comments
Heritage Council of WA	After reviewing the application, we have no objection to the proposed shed at 22 Monger Street, York.	The Heritage Council's stance is a strong point in favour of the application.	Noted.
Landowner	My only comment relates to the requirements of the floodplain. Building should take cognisance of the potential flood levels. Although it is a shed I don't want it to impact our developing our site.	I cannot see how this replacement shed can impact on another development as the immediate land neighbours are the Shire of York Reserve and the Water Corporation	The outbuilding is proposed to replace the existing outbuilding thus not increasing the flood risks. The outbuilding should not pose any adverse effects on adjoining properties.
Shire of York Heritage Advisor	I'm beginning to think that the Shire should develop and adopt a policy relating to oversized outbuildings.  Although this does not have the same issues as the other oversized outbuilding applications because of its location to the rear of the existing building, it is still likely to have a visual impact to the streetscape. Therefore, the preference would be for a longer single storey structure to be built as opposed to an oversize one.  Having said that, the photograph suggests there is a fall in the land away from the existing building. If this can be confirmed, it would mean that the shed will not actually appear too oversized when constructed.	I attached images and contour plan with the application. There is a fall of over 1 metre from the cottage rear verandah to the shed floor and a similar fall from the road. Thus, the shed will not appear oversized.  A "longer single storey structure" for the applicant's storage requirements (i.e. a significantly larger footprint) as suggested by the Shire Heritage Advisor will in fact be more intrusive than the proposal in the application. The proposed replacement of the inappropriate and unattractive flat roof of the present shed will undoubtedly improve the look of the streetscape in this heritage precinct.	Noted.  There is a fall in the lay of the land at the point of the existing outbuilding. This will have the effect of reducing the impact of the over height outbuilding by blending the roofline with the roofline of the existing dwelling.  Any approval will be conditional upon a schedule of building materials and colours being submitted for approval.

	Also, details of the colour scheme need to be provided.	Materials and colours were included as part of the application: Horizontal Walls and RAD door – zincalume colorbond 'Headland' to match cedar walls at rear of cottage Roof – zincalume colorbond 'Pale Eucalypt' to match roof of cottage Barge and gutters (in style of cottage) – Cottage Green The WA Heritage Council has not noted an alternative or preferred colour scheme	
Landowner	Regarding the proposed development in Monger Street. Why does everyone have to have these unsightly huge sheds which overpower lovely little houses?	The proposal replaces what is now regarded as an unsightly shed in a heritage area. Did this objector / landowner view the present application at Council premises?	Noted.
Water Corporation	The Water corporation has no objections to the proposed development.  In accordance with Water Corporation legislation, a full assessment of service requirements and related charges for the proposed development will be made when the applicant submits building plans to the Corporation for approval.	No water service is required. It is proposed for roof rainwater run off to be collected in a water tank to service the garden.	Noted.





**Lot 75 (22) Monger Street, York**



